

## Help America Vote Act of 2002



# *Virginia State Plan*

*– July 2003 –*

*Adopted by the  
Virginia State Board of Elections*

*7/31/2003*

*revised 12/7/2004*



*COMMONWEALTH of VIRGINIA*  
*STATE BOARD OF ELECTIONS*

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June 2, 2003

Dear Virginia Voters:

The Help America Vote Act of 2002 (HAVA) gives us a unique and historic opportunity to improve the election process in the Commonwealth. While Virginia has led the nation in implementing election reform initiatives over the years, there is much to be done to fully enfranchise our citizenry.

The federal financial support authorized by HAVA will allow us to create an improved statewide voter registration system, replace antiquated voting equipment, improve polling place accessibility for individuals with disabilities, enhance the training of poll workers and election officials, give our military and other overseas Virginia residents improved opportunities to vote, and supply voters with information about voting procedures, voting rights and voting technology.

We appreciate the gift of time and energy granted to this effort by the members of the Virginia HAVA Advisory Committee, established in January 2003. This group, individuals who represent the diverse constituencies that have a vested interest in having the best system of elections in the country, were instrumental in helping us develop the framework for our reform efforts and compliance with HAVA.

The Virginia State Plan will be a living document that we will update as we reach goals and fine-tune to incorporate new ideas.

Governor Warner and the members of the General Assembly have enthusiastically endorsed Virginia's participation in implementing the Help America Vote Act. With their support and the support of the voters of Virginia, I am confident that we can initiate reforms that will improve the election process for generations to come.

Sincerely,

A handwritten signature in cursive script that reads "Jean R. Jensen".

Jean R. Jensen  
Secretary, State Board of Elections

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## Introduction

### The State of Elections in Virginia

Virginia is fortunate in that some of the requirements of HAVA are already in place and only minor adjustments are necessary to bring those elements into full compliance with the mandates of the Act. The State has had provisional (previously called “conditional” in Virginia) voting, identification requirements and a voting equipment certification process in place for many years. The State Board of Elections (SBE) has made special efforts to address deficiencies in the accessibility of Virginia’s 2294 polling places.

In other areas, Virginia still has work to do. The State has had a single statewide voter registration list, but the system is 30 years old and requires replacing, as it does not comply with many of the requirements of HAVA. While the State certifies voting equipment, over 62% of our precincts used punch card or lever machines in November 2000. While the State has made it easier for persons with disabilities to vote (e.g., curbside voting), not all persons with disabilities are able to vote in a private and independent manner.

The following sections discuss the State of Elections in Virginia and provide a snapshot of the State’s status on meeting HAVA requirements.

### Voting Systems

The Code of Virginia (hereinafter referred to as “Code”) requires that the SBE certify any mechanical or electronic voting system or equipment before any locality may purchase (or lease) the system or equipment (Code §24.2-625 et seq.). The certification procedure adopted by the three-member Board (hereinafter referred to as “the Board”) first requires certification by an Independent Testing Authority (ITA) and then Virginia-specific hardware and software testing, financial certification and field-testing. Virginia retains a consultant well versed in the technology and issues surrounding the implementation of new voting technology; the consultant conducts the hardware and software tests and makes recommendations. The Virginia Department of Accounts reviews all financial documents.

Each of Virginia’s 134 localities purchases (from the list of certified equipment) and maintains its own voting equipment. In early 2002, the Board certified its first two Direct Recording Electronic (DRE) voting systems, both of which are adaptable for non-visual use. Virginia has now certified seven different DREs from six different vendors.

There are five categories of equipment in use in Virginia: paper, optical scan, mechanical lever, punch card, and DRE (either touch screen or button). These categories are in use as follows:

Type	# of Precincts	# of Central Absentee Precincts	Units	Tabulators/Booths
Paper	20	21	—	—
Optical Scan	466	55	—	509/2172
Mechanical Lever	669	—	1547	—
Punch Card	288	4	—	323/2667
DRE	853	1	3248	270/174
Totals:	2296	81	4795	1102/5013

Finally, since 2001 SBE has, on an annual basis, reviewed, adopted and distributed uniform definitions of what constitutes a valid vote for paper, punch card and optical scan ballots in a recount or other hand count.

### **Polling Place Accessibility**

Beginning in January 2002, SBE has dedicated considerable effort towards ensuring that polling places are ADA (Americans with Disabilities Act) compliant. At that time, SBE sent out a survey to every registration office and required that each locality evaluate each polling place for accessibility based on defined requirements. As of that date, 12.6% of Virginia's precincts were not compliant based on the self-evaluation. As of January 1, 2003, these self-evaluations resulted in only 12 precincts (out of 2277 total) reported as out of compliance. While SBE had also begun site visits to verify the reports on the self-evaluations, budgetary considerations precluded the audit program necessary to ensure 100% compliance.

In March 2004, SBE contracted with 16 Centers for Independent Living (CILs) located throughout the state to conduct on site accessibility surveys of every building used as a polling place by September 1, 2005. To date, the CILs have completed 65% of these surveys, which apply ADA Guidelines to the polling place as it is configured on the day of an election. As of November 2, 2004, the survey process reported 469 polling places in full compliance with these guidelines. Remediation efforts have begun and are on-going for those polling places not in full compliance.

### **Provisional Voting**

Provisional voting (previously known as "conditional voting" in the Code) has been available to Virginia voters since 1975. When a person offers to vote as a registered voter in the precinct, but their name cannot be found on the precinct registered voter list, an officer of election will call the local general registrar. If the general registrar is not available, or cannot state that the person is in fact registered to vote, then that person is allowed to vote a paper provisional ballot. If the registrar is available and confirms that the person *is* a registered voter in that precinct, the person votes in the same manner as other voters. If registered in another precinct, the officer of election refers the voter to the correct precinct.

The provisional voter must provide, subject to the penalties for making false statements pursuant to Code §24.2-1016 (on a green envelope supplied by the State Board) the identifying information required in Code §24.2-652. An officer of election informs the voter that a determination of the voter's right to vote shall be made by the electoral board on the following day and advises the voter of the beginning time and place for the board's meeting. The electoral board only counts the ballot if it finds, by the time of their meeting, that the person was in fact registered and qualified to vote in that precinct (Code §24.2-653).

The most common reason for provisional ballots to be used and counted is that the voter's name could not be found on the printed list at the polls because of a spelling variation, name change, hyphenation (used or missing), or the inversion of parts of the voter's name. Provisional ballots have also been counted when the voter successfully appealed his removal from the list, a completed and timely application was found, or it was determined that the voter's name was removed in error. Provisional ballots are usually not counted because no record could be found of the person's registration, the voter was in the wrong precinct, or the voter had applied after the registration deadline for that election. Provisional voting ensures that qualified voters whose names cannot initially be found on the list at the polls will, nevertheless, have their votes counted.

### **Voting Information**

Virginia now provides public information at the polls on each Election Day including:

- ✓ A sample ballot; (HAVA §302(b)(2)(A))
- ✓ Information regarding the date of the election and the hours during which the polls are open; (HAVA §302(b)(2)(B))
- ✓ Instructions on how to cast a ballot specific to the equipment or ballot style in use; (HAVA §302(b)(2)(C))
- ✓ Instructions on ID requirements; (HAVA §302(b)(2)(D))
- ✓ General information on voting rights, on the right to cast a provisional ballot and on how to contact officials if these rights might have been violated. (HAVA §302(b)(2)(E))
- ✓ General information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation. (§302(b)(2)(F))

### ***Voter Registration List***

Virginia uses a centralized voter registration system (Code §24.2-404) known as the Virginia Voter Registration System (VVRS), first developed in 1973. Virginia was the second state in the nation to have a centralized voter registration database. In 1988, VVRS underwent a substantial revision that moved the system from batch-driven to interactive. While the system has evolved over time to meet ever-expanding requirements, it is, and throughout its life has been, a COBOL application resident on a Unisys mainframe. The State provides secure access to the VVRS for each locality by frame relay circuits that run between each locality's voter registration office and the Virginia Information Technologies Agency (VITA) where the Unisys mainframe resides.

While VVRS is a statewide secure system, it does not meet all of the requirements of HAVA (e.g., temporary, federal-only registrants are kept outside the system thus creating two lists that are manually merged into one paper list for each election). The system is costly to maintain and costly to modify. Indeed, several studies completed in the 1990's<sup>1</sup> recommended replacement of the system.

In 2000, SBE began development of a replacement system, dubbed "VVRS-II." Due to a budget impasse in 2001, there was no second year funding (required to complete the project) and the development effort ended well short of a final usable product.

In June 2004, VITA, on behalf of SBE, released a Request for Proposals for a new, fully compliant statewide voter registration system. Contract negotiations are on-going with an award anticipated in December 2004.

### ***Registration by Mail and Voter ID***

The National Voter Registration Act (NVRA) mandated that states allow voters to register by mail and at designated agencies such as the Department of Motor Vehicles. Before its 1996 implementation in Virginia, most voters (other than military and overseas voters) were required to register in person in front of a registrar. Initially, the state required first time mail registrants (other than certain exempt classes such as military and overseas voters, and students away at school), to vote in person the first time they voted in Virginia, and to present identification at that time. The in-person requirement is still in the Code, but the state legislature in 2000 extended the ID requirement to all voters voting in person at the polls. In 2002, the state further extended the ID requirement to include absentee voters who voted in person at a registrar's office or satellite absentee location established by the registrar.

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<sup>1</sup> *Review of the State Board of Elections*, Joint Legislative Audit and Review Commission of the Virginia General Assembly, House Document No. 18, Commonwealth of Virginia, Richmond, 1999, pp. 102-104.

The current Virginia ID requirement is that the voter present one of the types of ID specified in the Code, or signs a statement affirming his identity, under felony penalty for false statements, in lieu of presenting ID. The specified forms of identification are:

- ✓ A Commonwealth of Virginia voter registration card;
- ✓ A Social Security card;
- ✓ A valid Virginia driver's license;
- ✓ Any other identification card issued by a government agency of the Commonwealth, one of its political subdivisions, or the United States; or
- ✓ Any valid employee identification card containing a photograph of the voter and issued by an employer of the voter in the ordinary course of the employer's business.

The Code of Virginia has been updated to implement the identification requirements listed in HAVA for those individuals registering for the first time in a locality by mail and who have not previously voted in a federal election in their jurisdiction. This identification is required when voting in person or by absentee ballot (when allowed under state law) for federal elections held after January 1, 2004. The specified forms of identification are:

- ✓ A current and valid photo identification;
- ✓ A copy of a current utility bill, bank statement, government check, paycheck, or other document that shows the name and address of the voter.

### **Training and Voter Education**

The SBE is required (Code §24.2-103) to provide training for General Registrars and Electoral Board members. SBE meets this mandate by holding annual training, providing a secure web site that contains various training documents including a Handbook and providing on-going support.

Virginia has also invested in providing information to the public. The SBE web site has won national recognition<sup>2</sup> for the services it provides including:

- ✓ The most frequently requested registration and election statistics are available for viewing/download.
- ✓ All voter registration and candidate forms along with all candidate bulletins and a summary of the Virginia Campaign Finance Disclosure Act are available for download.
- ✓ A suite of interactive web applications, developed over the past four years, allows Virginia citizens to:
  - Securely verify their voter registration status;
  - Find the location of their polling place;
  - Contact their elected representatives;
  - Securely track the status of their absentee ballot application;
  - View candidate names and addresses for upcoming elections;
  - View campaign finance disclosure reports for General Assembly, Governor, Lieutenant Governor, and Attorney General candidates; and
  - View real-time election results on election night as the local election offices report them.

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<sup>2</sup> Gracie 2002, *Grace Hopper Government Technology Leadership Awards 2002, Virginia Election and Voter Services*.

In addition, the SBE provides brochures on statewide ballot issues and constitutional amendments, distributes them through local elections offices for the public and polling places, publishes newspaper ads, provides posters for polling places and posts the information to the state web site.



## Elements of the State Plan

### 1. How Virginia will use the Requirements Payments

*How the State will use the requirements payment to meet the requirements of title III, and, if applicable under section 251(a)(2), to carry out other activities to improve the administration of elections. – HAVA §254 (a)(1)*

#### **§301(a), Voting Systems Standards Requirements**

Virginia intends to maintain its system of voting equipment certification and to maintain the diversity of choices for localities. To meet the requirements of HAVA, the state will:

- ✓ Review and update (if necessary) state certification standards and ensure that these standards fully comply with the requirements of §301 including voter verification (in a private and independent manner), audit capacity, accessibility and error rates.
- ✓ Use Title III funding to purchase one DRE for every precinct, including central absentee precincts where they exist. (§301(a)(3))
- ✓ Use FY04 and FY05 Title III funding to assist localities in purchasing additional equipment or modifying existing equipment to meet the requirements of this section.
- ✓ Ensure that new equipment can provide for alternative language accessibility (although this is not now required in Virginia). (§301(a)(4))
- ✓ Conduct audits (i.e., site visits) to ensure that 100% of Virginia's 2294 polling places meet the requirements of the Americans with Disabilities Act (ADA) and applicable Virginia law.
- ✓ Update its uniform definitions of what constitutes a vote to reflect the requirements of new systems. (§301(a)(6))

In preparation for the review of the state certification standards, SBE contracted with a vendor to develop policies, standards and guidelines for the secure implementation of DRE voting systems. The Board discussed and adopted the policy and standards documents at its meeting on ??????.

#### **§302, Provisional Voting and Voting Information Requirements**

##### PROVISIONAL VOTING

Virginia currently permits provisional voting (Code §24.2-653) that meets the requirements of the Act. To bring Virginia procedures into full compliance, the state enacted several changes:

- ✓ Developed the written information required under §302 (a)(5)(A). SBE distributes this information to the localities and posts it on the state's web site.
- ✓ Developed a free-access system by instituting a toll-free number. SBE upgraded the phone system to maintain this toll free number, which routes callers to their localities. Each provisional voter is provided the number and a code at the time the provisional ballot is cast. The voter then dials in on the toll free number, enters the assigned code and is transferred to the proper local registration office where the information on the disposition of provisional ballots is maintained. (§302(a)(5)(B))

### VOTING INFORMATION

Virginia now meets all of the requirements for the posting of information at the polls on Election Day. SBE has modified or added documents so that the material posted at each polling place is in full compliance with the Act. Specifically:

- ✓ SBE prepares and distributes information regarding the date of the election and the hours during which the polls are open; (HAVA §302(b)(2)(B))
- ✓ SBE prepares and distributes instructions on how to cast a provisional ballot; (§302(b)(2)(C))
- ✓ SBE modified the information on identification requirements to reflect the new requirements of the Act for applicable voters; (§302(b)(2)(D))
- ✓ SBE prepares and distributes general information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation. (§302(b)(2)(F))

Finally, HAVA requires that, if a court order extends the closing time of the polls, the state must consider ballots cast after the normal closing time as provisional ballots and local election officials must segregate these provisional ballots from the other ballots for that election. This provision would not apply to anyone who is in line by the normal closing time for the polls (and who is already allowed to vote in the usual manner). It would only apply to those who arrive after the normal closing time, and who vote because of a court order extending the voting hours. SBE sought and passed legislation in 2004 which amended § 24.2-653 of the Code of Virginia to reflect this requirement. (§302(c)).

### ***§303, Computerized Statewide Voter Registration List Requirements and Requirements for Voters Who Register by Mail***

#### COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST

Although Virginia now has a computerized statewide voter registration list, it does not meet all of the requirements of HAVA. Based on experience, it will be expensive to modify the system to bring it in to compliance. Instead, Virginia will develop a new system using the project management guidelines developed and promulgated by VITA (COV ITRM Guideline GOV2003-02.2). The new system will:

- ✓ Serve as the single system for storing and managing the official list of registered voters in Virginia. (§303 (a)(1)(A)(i))
- ✓ Contain the name and registration information for every legally registered voter in the state including all temporary registrants. (§303 (a)(1)(A)(ii))
- ✓ Assign a unique identifier to each legally registered voter in the state. The Virginia Constitution (Article II, §2) requires that voter registration applicants provide a social security number on the registration application. However, as SBE cannot disclose this number to the public (Code §24.2-405), the VVRS assigns each voter a different and unique 9-digit number. The state expects this practice to continue under the new system. (§303 (a)(1)(A)(iii))
- ✓ Coordinate with other agency databases within the State. SBE expects to work with the Department of Motor Vehicles (DMV), the State Police, the Courts, the Office of Vital Records and Health Statistics (in the Department of Health) and other agencies to create close coordination between the new system and other existing agency databases. (§303 (a)(1)(A)(iv))
- ✓ Allow immediate electronic access for any election official in the State. Some local election officials who do not have voter registration responsibilities (e.g., Electoral Board members) may be permitted read-only access, however, all General Registrars and their assistants will be permitted full access privileges. (§303 (a)(1)(A)(v))

- ✓ Ensure that all voter registration information obtained by General Registrars is entered on an expedited basis at the time the information is provided. SBE will review current procedures and training documents and revise them as needed. (§303 (a)(1)(A)(vi))
- ✓ Serve as the official voter registration list for the conduct of all elections in the State. (§303 (a)(1)(A)(viii))

SBE will also provide the technical support necessary to ensure that local election officials (e.g., General Registrars) can keep the list current and enter information about voters on an expedited basis (§303 (a)(1)(A)(vii)). Further, SBE will ensure that the security of the system meets the requirements of §303(a)(3) and Virginia's *Information Technology Security Standard* (COV ITRM Standard SEC2001-01.1).

SBE will perform list maintenance as prescribed by applicable law. The current voter registration system uses a "confirmation" process (Code §24.2-428-429) to implement the requirements of the National Voter Registration Act of 1993 (NVRA). SBE annually mails confirmations to voters believed to have moved. The State also cooperates with the State Police on felony convictions and with the Office of Vital Records and Health Statistics on deaths. Much of the list maintenance now involves manual verification and inactivation. The VVRS will only identify duplicate names within a locality, not between localities. The system does identify duplicate social security numbers (SSNs) statewide upon initial entry. VVRS does not permit duplicate registrations under the same SSN. The new system will improve on the current system and include the current processes (§303 (a)(4)(A)) as well as additional safeguards to ensure that:

- ✓ The name of each registered voter appears on the list (§303 (a)(2)(B)(i));
- ✓ Only voters who are not registered or who are not eligible to vote are removed (§303 (a)(2)(B)(ii));
- ✓ Duplicate names are eliminated (§303 (a)(2)(B)(iii)); and
- ✓ Eligible voters are not removed in error from the official list (§303 (a)(4)(B)).

As Virginia is both permitted to use social security numbers (SSNs) and provides for the use of SSNs on applications for voter registration, the State is exempt from the requirements of §303 (a)(5). Virginia does intend to build in verification procedures that include closer coordination with the DMV database and verification through DMV with the Social Security Administration's database.

In June 2004, VITA, on behalf of SBE, released a Request for Proposals for a new, fully compliant statewide voter registration system. Contract negotiations are on-going with an award anticipated in December 2004.

#### VOTERS WHO REGISTER BY MAIL

Virginia requires all voters voting in person to present one of a list of specified IDs, or sign a statement attesting to their identity in lieu of presenting ID. In federal elections beginning in 2004, a different set of ID requirements, as mandated by federal law and ensuing state law, was applied to any first-time Virginia voter who:

- ✓ Registered to vote by mail after January 1, 2003, and
- ✓ Has not previously voted in a federal election in Virginia, and
- ✓ Registered stating, subject to felony penalties for false statements pursuant to § 24.2-1016, that he does not have a social security number, or provided a social security number which could not be matched to an existing State identification record bearing the same number, name and date of birth in the Virginia Division of Motor Vehicles database.

When voting the first time in a federal election (while these federal ID requirements remain in effect for Virginia), these voters will need to present at the polls (or send with their mailed ballot a copy of):

- ✓ A current and valid photo identification, or
- ✓ A copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter.

Such voters may not sign the state affirmation of identity form in lieu of presenting one of the federally required IDs. They also will not be able to use any of the state-specified IDs that do not include a photo (e.g., a social security card). Any such voter not presenting the required ID or copy will vote a Provisional Ballot. The electoral board will count such Provisional Ballot only if it verifies that the voter is entitled to vote in that precinct.

The new federal ID requirements do not apply to any voter who:

- ✓ Is entitled to vote absentee under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1 et seq.), or
- ✓ Is provided the right to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii)), or
- ✓ Is entitled to vote otherwise than in person under any other Federal law, or
- ✓ Submits a copy of an appropriate ID (from the federal list) with their application. (Virginia updated the mail-in voter registration form to include this request.)
- ✓ Submits a driver's license number or at least the last four digits of his or her social security number and this information can be matched with an existing State identification record bearing the same number, name and date of birth. SBE ran a match of first time mail registrants prior to the November 2004 general election and achieved an 80% match rate with DMV records.

This federally mandated ID requirement would not apply to *any Virginia voter* once Virginia's computerized Voter Registration System has met all the requirements of §303(a) of HAVA. Since upgrading the current system to meet those requirements is one of Virginia's top priorities, the state anticipates that these federal ID requirements will only be in effect for the 2004 federal elections, and that the state will be exempt by 2006 at the latest.

Beginning with the first federal election of 2004 (the February 10 Democratic Presidential Primary), SBE identified those first time mail registrants that had not previously voted in a federal election and mailed each a postcard prior to each federal election, notifying them of the new ID requirements. SBE will continue this process until the new Voter Registration System is fully operational.

Finally, Virginia redesigned the voter registration application to include the questions and statement required under §303 (b)(4); local registration offices are required to notify applicants denied registration of the reasons for the denial and to provide a new application to such applicants (Code §24.2-422).

### **§304, Minimum Requirements**

Virginia understands that the requirements of Title III are minimum requirements and that the State may establish election technology and administration requirements that are more stringent. Any more stringent requirements that the State imposes will comply with all Title III requirements, the laws described in §906 and the Code of Virginia.

## 2. How Virginia will distribute and monitor Requirements Payments

*How the State will distribute and monitor the distribution of the requirements payment to units of local government or other entities in the State for carrying out the activities described in paragraph (1) including a description of –*

- (A) The criteria to be used to determine the eligibility of such units or entities for receiving the payment; and*
- (B) The methods to be used by the State to monitor the performance of the units or entities to whom the payment is distributed, consistent with the performance goals and measures adopted under paragraph (8). – HAVA §254 (a)(2)*

SBE will manage all activities funded by the Requirements Payments and the Secretary of the SBE will authorize all expenditures. SBE may disburse Requirements Payment funds to localities for the purchase or modification of voting equipment to meet accessibility requirements (§301 (a)(3)) or to meet other requirements of the Act.

SBE will coordinate, to the maximum extent possible, the purchase of voting equipment among localities to ensure the lowest per unit cost for each locality. The State will negotiate with each certified voting equipment vendor to achieve volume pricing on state contract. In some cases, localities may choose to purchase directly from a certified vendor; in these cases, SBE may reimburse localities based on the lowest negotiated state contract pricing.

SBE will adhere to the Code and established federal and state accounting policies and standards when distributing federal funds.

### 3. Education and Training

*How the State will provide for programs of voter education, election official education and training, and poll worker training which will assist the State in meeting the requirements of title III. – HAVA §254 (a)(3)*

Virginia plans to implement an aggressive program of voter education, election official education and training and poll worker training. The State views this program as vital to the success of the HAVA implementation effort. The HAVA Training Program may contain, among other things, the following elements:

#### **Training for Election Officials and Officers of Election**

- ✓ Create information on Basic Procedures for training Officers of Election. SBE will provide standard information and allow localities to provide their own custom content.
- ✓ Create interactive web-based systems for Officers of Election that include testing.
- ✓ Create and make training presentations available through the SBE web site.
- ✓ Create an upgraded and enhanced secure web site that includes a variety of training material and tools for General Registrars and Electoral Boards.
- ✓ Implement regional training for General Registrars and Electoral Board members.

#### **Voter Education**

- ✓ Provide voter information to every voter along with the Voter Registration Card. The information will include information about voters' rights; the process; accessibility; special considerations for students, uniformed and overseas voters; and absentee procedures. The information may be available in languages other than English.
- ✓ Use community or civic associations, newsletters to get information out.
- ✓ Prepare Public Service Announcements for distribution to radio and television stations.
- ✓ Publicize election information in grocery stores, public buses, and libraries and on the Internet.
- ✓ Use other organizations and their structures to educate voters. Provide demonstration equipment to these organizations.
- ✓ Make resource material available for teachers and professors (developed by teachers and professors) on the SBE web site.
- ✓ Require that voting machine vendors provide practice machines and include training in their contracts.
- ✓ Set up voting equipment for practice sessions, especially at DMV, malls, and public libraries.
- ✓ Create interactive web pages for each type of voting equipment. These pages would include a voting demonstration and allow the voter to practice voting. Require that vendors provide the emulation software as part of their package.
- ✓ Ensure that the SBE web site fully complies with the new Virginia accessibility and usability standards.
- ✓ Make sure that other state agency web sites link to the SBE web site in a prominent way.
- ✓ Seek law change to allow inclusion of neutral voter education material (e.g., information on registration status, brochure on constitutional amendments) in the mailing with the absentee ballots.

- ✓ Encourage colleges and universities to keep registration materials readily available and publicized.



#### 4. Voting System Guidelines and Processes

*How the State will adopt voting system guidelines and processes which are consistent with the requirements of section 301. – HAVA §254 (a)(4)*

Virginia law requires that the SBE certify any mechanical or electronic voting system or equipment before any locality may purchase (or lease) the system or equipment (Code §24.2-625 et seq.). The procedure adopted by the Board requires that new equipment pass a Qualification Test (conducted by an ITA designated by the SBE), a Certification Test (conducted by a consultant on retainer to SBE) and Acceptance Tests (field testing conducted in one or more localities).

The Qualification Test evaluates the hardware and all software elements to ensure compliance with the requirements of both the design and the SBE. The ITA examines all hardware to determine its suitability for election use. At this level, engineering or development prototypes are not acceptable unless the vendor can show that the equipment to be tested will perform in all respects the same as, and is constructed in a manner representative of, standard production units. The ITA also examines and tests voting system software to ensure that it adheres to the performance standards specified in federal standards.

The Certification Test verifies that the design and performance of the voting system comply with all applicable requirements of the Code of Virginia. A consultant, on retainer to SBE, evaluates all system functions that are essential to the conduct of an election. The test environment includes the preparation and operation of election and voting databases and the validation, consolidation and reporting of administrative and voting data as required by law. Vendors must also provide detailed technical and corporate financial information.

Acceptance Tests confirm that the purchased or leased system is identical to the certified system and that the equipment and software are fully functional and capable of satisfying the administrative and statutory requirements of the jurisdiction conducting the test. Typically, the Acceptance Test demonstrates the system's ability to:

- ✓ Process simulated ballots for each precinct or polling place.
- ✓ Reject over votes and votes in invalid ballot positions.
- ✓ Produce an input to or generate a final report of the election and interim reports as required.
- ✓ Generate system status and error messages.
- ✓ Generate system audit reports.
- ✓ Comply with and enable voter and operator compliance with the procedures, regulations and statutes of the jurisdiction.

The Board will review the standards to ensure full compliance with the requirements of §301 and revise *The Virginia Voting Systems and Equipment Certification Guidelines: Submission Procedures* (the document provided to all vendors seeking to introduce new equipment) as needed. Current Virginia law permits the Board sufficient latitude to incorporate any changes that may be necessary.

In preparation for the review of the state certification standards, SBE contracted with a vendor to develop policies, standards and guidelines for the secure implementation of DRE voting systems. The Board discussed and adopted the policy and standards documents at its meeting on ??????.

The Board will also continue current practice and, before each general election, update its uniform definitions of what constitutes a vote to reflect the requirements of new systems.



## 5. Election Fund

*How the State will establish a fund described in subsection (b) for purposes of administering the State's activities under this part, including information on fund management. – HAVA §254 (a)(5)*

SBE established The Virginia Election Fund through an administrative procedure as permitted by State law. The Secretary of the State Board of Elections authorizes all payments made from the fund and the Treasurer of Virginia is the signatory of all checks issued from the fund. Account codes allow the State to track receipts and disbursements for §101, §102, Requirements Payment, and State Matching (5%) funds separately. The fund is interest bearing.

The Secretary of the State Board of Elections will continue to work with the agency's fiscal office, the Department of Planning and Budget and the Treasurer of Virginia to ensure that fund management follows all appropriate federal and state policies and procedures.

## 6. Budget for Title III Requirements

*The State's proposed budget for activities under this part, based on the State's best estimates of the costs of such activities and the amount of funds to be made available, including specific information on –*

- (A) *The costs of the activities required to be carried out to meet the requirements of title III;*
  - (B) *The portion of the requirements payment which will be used to carry out activities to meet such requirements; and*
  - (C) *The portion of the requirements payment which will be used to carry out other activities.*
- HAVA §254 (a)(6)

As of December 2004, federal appropriations remained lower than authorized by the Act. In creating a budget, the state made certain assumptions about future funding levels, summarized in the table below:

(\$ in millions) Federal Fiscal Year	Total Federal funds projected	Virginia Federal Share	5% State match requirement*	Total funds projected for Virginia
Early Payments (Title I Funds)	\$650.0 (appropriated)	\$11.6	—	\$11.6
2003	\$833 (appropriated)	\$20.6	\$1.1	\$21.7
2004	\$1,500.0 (appropriated)	\$35.5	\$1.9	\$37.4
2005	\$0.0 (appropriated)	\$0.0	\$0.0	\$0.0
<b>Total:</b>	<b>\$2,983.0</b>	<b>\$67.7</b>	<b>\$3.0</b>	<b>\$70.7</b>

\* 5% match calculated by multiplying the Virginia Federal Share by 0.0526.

Based on these funding levels, the state developed a budget (through the end of CY05) that reflects only appropriated funds (and corresponding state matching funds) and the costs of implementation and maintenance associated with Title III requirements and other activities associated with the Act. As information becomes available about future funding levels, Plan revisions will adjust the budget accordingly.

(\$ in millions) HAVA Requirements	Total Cost	§101 Funds	§102 Funds	§252 & 257 Funds	State matching funds	Total Projected
<b>Title III Requirements</b>						
§301 Voting System Standards						
Punch card & Lever buy-out	<b>\$23.2</b>		\$4.5	\$15.7	\$3.0	<b>\$23.2</b>
DRE purchase	<b>\$9.5</b>			\$7.0		<b>\$7.0</b>
Accessibility Audits	<b>\$0.5</b>	\$0.5				<b>\$0.5</b>
§302 Provisional voting and voting information	<b>\$1.0</b>			\$1.0		<b>\$1.0</b>
§303 Computerized statewide voter registration system and mail registration	<b>\$12.2</b>	\$3.2		\$9.0		<b>\$12.2</b>
<b>Other Election Reform Activities</b>						
§254 Voter education	<b>\$5.0</b>			\$5.0		<b>\$5.0</b>
§254 Election official education and training	<b>\$3.5</b>			\$3.5		<b>\$3.5</b>
§254 Poll worker training	<b>\$5.0</b>			\$5.0		<b>\$5.0</b>
§402 Grievance Procedure	<b>\$0.4</b>	\$0.4				<b>\$0.4</b>
§702 Single state UOCAVA <sup>3</sup> Office	<b>\$0.5</b>	\$0.5				<b>\$0.5</b>
Plan creation, implementation and management	<b>\$2.5</b>	\$2.5				<b>\$2.5</b>
Contingency	<b>\$7.4</b>			\$7.4		
<b>Totals:</b>	<b>\$70.7</b>	<b>\$7.1</b>	<b>\$4.5</b>	<b>\$56.1</b>	<b>\$3.0</b>	<b>\$70.7</b>

Note that:

- ✓ Only appropriated funds have been budgeted as available. Funds marked for Contingency will be used either to supplement the budget priorities set forth in this plan or to provide for long-term maintenance and operational support of new systems adopted or implemented under this Plan.
- ✓ The systems put in place by this Plan will require on-going maintenance beyond the life of the authorization for funding. Systems' maintenance will affect both state and local budgets for the foreseeable future.
- ✓ The State is in no position to supplement the 5% match to make up for any shortfall.
- ✓ Should a shortfall exist, some of the programs described in this Plan will either remain under funded (and thus not fully implemented) or will go unfunded entirely.
- ✓ Should excess funds (i.e., funds remaining after the requirements are met and all Other Election Reform Activities are funded) remain, they will maintain the new systems in years following the life of the Act.

<sup>3</sup> UOCAVA: Uniformed and Overseas Citizens Absentee Voting Act.

## 7. Maintenance of Effort

*How the State, in using the requirements payment, will maintain the expenditures of the State for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the State for the fiscal year ending prior to November 2000. – HAVA §254 (a)(7)*

In accordance with HAVA section 254 (a)(7), Virginia will maintain expenditures of the State for activities funded by the Requirements Payment at a level equal to or greater than the level of such expenditures in State FY00. The total spent on meeting the specific requirements of Title III in that FY was \$778,994. This amount is a fraction of the total amount spent on elections by the State.

In addition, in Virginia, much of the expense of both federal and state elections is born by the 134 localities. The cost of poll workers' pay and training, voting equipment, ballot generation and absentee ballot processing all are costs born by local governments. Virginia will ensure that localities continue to maintain levels of expenditures sufficient to fund elections and that the localities will not use HAVA funds for routine registration- and election-related expenses. As discussed in Section 2 of this Plan, some payments to localities may occur on a reimbursement basis for the purchase of voting equipment; SBE will make no payments to cover the costs associated with the "normal" business of Virginia's local registration and election offices.

## 8. Performance Goals and Measures for Virginia and localities

*How the State will adopt performance goals and measures that will be used by the State to determine its success and the success of units of local government in the State in carrying out the plan, including timetables for meeting each of the elements of the plan, descriptions of the criteria the State will use to measure performance and the process used to develop such criteria, and a description of which official is to be held responsible for ensuring that each performance goal is met. – HAVA §254 (a)(8)*

The Secretary of SBE, through an executive agreement with the Governor, established high-level goals and performance criteria and has the ultimate responsibility for ensuring the success of Virginia's HAVA implementation effort. The Deputy Secretary has day-to-day operational responsibility for the implementation.

SBE will establish a HAVA Implementation Team (HIT), composed of the Secretary, Deputy Secretary, Assistant Secretary for Elections and Training, Assistant Secretary for Operations & Policy, a representative of the Virginia Electoral Board Association, a representative of the Virginia Registrars Association; and other such members as the Secretary deems appropriate.

The HIT will draft specific goals and performance measures and submit them to the Board for approval. The HIT will, as the implementation proceeds, continually evaluate existing goals and measures and propose adjustments as needed. The Board will approve all performance goals, measures and adjustments to the same.

### Performance Goals

Virginia's goal is to achieve election reform and compliance with HAVA requirements through the successful implementation of the programs outlined in the State Plan. The following table provides the functional division of the responsibility for implementation. Only titles have been included so that accountability remains with a position and not with a specific person.

Plan Elements	State Official	Time frame
Voting Systems §301	Asst. Sec. for Elections & Training	Compliant by January 1, 2006
Provisional Voting §302	Asst. Sec. for Operations & Policy	Compliant by January 1, 2004
Voter Registration List §303(a)	Asst. Sec. for Operations & Policy	Compliant by January 1, 2006
Voter Registration §303(b)	Asst. Sec. for Operations & Policy	Compliant by January 1, 2004
Education and Training §254(a)(3)	Asst. Sec. for Elections & Training	On-going
Polling Place Accessibility	Asst. Sec. for Elections & Training	On-going
Budget and Fiscal Controls	Asst. Sec. for Operations & Policy	On-going
Grievance Procedures	Deputy Secretary	Implemented by January 1, 2004
UOCAVA Office	Asst. Sec. for Operations & Policy	Compliant by January 1, 2004

### Performance Measures

The HIT will develop specific and detailed goals and measures and will use five broad categories of measures in evaluating each goal:

- ✓ Scope: will measure whether the scope of a given project is appropriate given the reality of internal and external factors.

- ✓ Schedule: will measure the progress toward goals including (at least) target start and stop dates, actual start and stop dates, percentage complete.
- ✓ Resources: will measure personnel and financial investment to ensure that the staffing and financial resources are sufficient for a given project at a given time.
- ✓ Quality: will measure the effectiveness of the project to ensure that it meets expectations.
- ✓ Risk: will measure the likelihood of certain events and the impact of those events on the project.

## 9. Complaint Procedures

*A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 402. – HAVA §254 (a)(9)*

SBE has adopted formal grievance procedures. For informal grievances, SBE has a toll free number and an e-mail address that any member of the public might use to file a complaint. The appropriate SBE staff, in many cases the Secretary, handles these informal complaints. Under current Virginia law, all written complaints are public documents open to public inspection.

The Board adopted a formal procedure that meets the requirements of §402. Specifically:

- ✓ The procedures are uniform and nondiscriminatory (§402 (a)(2)(A)).
- ✓ Under these procedures, any person who believes that there is a violation of any provision of Title III may file a complaint (§402 (a)(2)(B)).
- ✓ Any complaint filed under the procedures must be in writing and notarized, and signed and sworn to by the person filing the complaint (§402 (a)(2)(C)).
- ✓ The Deputy Secretary of the SBE receives all formal complaint filings and tracks all formal complaints, conducts an initial investigation and makes an initial attempt to resolve the issue through administrative means.
- ✓ The Deputy Secretary may consolidate similar formal and informal complaints into a single complaint (§402 (a)(2)(D)).
- ✓ Should attempts at resolution fail, and at the request of the complainant, there will be a hearing on the record, conducted by the three-member Board (§402 (a)(2)(E)).
- ✓ If the Board determines that there is a violation of any provision of Title III, the Board will specify the appropriate remedy (§402 (a)(2)(F)).
- ✓ If the Board determines that there is no violation, it will dismiss the complaint and publish the results of the proceedings (§402 (a)(2)(G)).
- ✓ The Board will make a final determination on any complaint within the 90 days following the day on which the complaint is filed unless the complainant consents to a longer period for such determination (§402 (a)(2)(H)).
- ✓ If the Board fails to meet the 90-day deadline, the complaint will be resolved within the next 60 days under alternative dispute resolution procedures adopted by the Board. The record and other materials from any such proceedings will be available for use under the alternative dispute resolution procedures (§402 (a)(2)(I)).
- ✓ SBE will notify in writing each complainant that files a formal complaint of the disposition of the complaint.

The formal process is as follows:

1. Complainants must fill out the Complaint Form (available at [www.sbe.virginia.gov](http://www.sbe.virginia.gov), in a brochure distributed to every local registration office and polling place, or by calling SBE and requesting the form).
2. The Complaint Form must be signed and notarized and sent to the Deputy Secretary at the SBE.
3. The Deputy Secretary reviews each such filed complaint. Every complainant has available three levels of resolution as follows:

**First Level of Resolution: The Deputy Secretary of the State Board of Elections**

The Deputy Secretary has 15 days from the receipt of a complaint to determine if the complaint is valid and resolve it. If the complaint is not valid, the Deputy Secretary will list the reasons for this decision and inform the complainant in writing of the right to use the Alternative Dispute Resolution Process (ADR). If there are several similar complaints then the Deputy Secretary may determine that the complaints can be resolved with a policy change. In this case, each complainant will receive written notice of the steps taken to resolve the issue.

If the complainant is unsatisfied with the Deputy Secretary's decision, the complainant has 10 days from the date of the decision to appeal and use the second level (ADR.)

**Second Level of Resolution: Alternative Dispute Resolution (ADR)**

The ADR specialist has 30 days to resolve the issue. The ADR specialist will contact the complainant to set up a meeting. At this meeting, the ADR specialist will assist the people in dispute to come up with a solution. If this recommendation does not satisfy everyone involved, the complainant has 10 days to request a hearing before the full State Board of Elections.

**Third Level of Resolution: Hearing before the State Board of Elections**

If a Board meeting is not scheduled within 30 days, SBE will request additional time to hear the case. If the complainant refuses the additional time request, the State Board of Elections will hold a special meeting to hear the complaint. At the hearing, the complainant will have the opportunity to present his or her case before the Board. The Board will then determine, by majority vote, if there is a violation and the corrective action that must be taken.

The Board has the final say on all complaints filed. All complaints settled before the Board will be explained in full detail on the SBE website and in the Board minutes.



## 10. Use of Title I Funds

*If the State received any payment under title I, a description of how such payment will affect the activities proposed to be carried out under the plan, including the amount of funds available for such activities. – HAVA §254 (a)(10)*

Virginia used Title I funds to jump-start the development of the new statewide voter registration system, establish and maintain the administrative grievance procedure, partially address polling place accessibility, fund the new UOCAVA office and explore the feasibility of further streamlining the absentee voting process for UOCAVA voters.

In 2003, staffing levels at SBE were insufficient to implement the requirements and additional staff were hired to augment the existing SBE structure.

Title I funds will be used as follows:

(\$ in millions) Title I Expenditures	Total Cost	§101 Funds	§102 Funds
<b>Title III Requirements</b>			
§301 Voting System Standards Punch card & Lever buy-out	<b>\$23.2</b>	—	\$4.5
§301 Accessibility Audits	<b>\$0.5</b>	\$0.5	—
§303 Computerized statewide voter registration system and mail registration	<b>\$12.2</b>	\$3.2	—
<b>Other Election Reform Activities</b>			
§402 Grievance Procedure	<b>\$0.4</b>	\$0.4	—
§702 Single state UOCAVA Office	<b>\$0.5</b>	\$0.5	—
Plan creation, implementation and management	<b>\$2.5</b>	\$2.5	
Other priorities or maintenance and on- going support		\$0.1	—
<b>Totals:</b>	<b>\$39.2</b>	<b>\$7.2</b>	<b>\$4.5</b>

If Title III funds are available, and if Virginia can appropriately use these funds for any of the expenditures listed under Title III requirements, in advance of spending these Title I funds, then the state will use Title III funds. If Title I funds must be used due to the unavailability of Title III funds, and Title III funds are later made available, the Title I funds will be reimbursed from Title III funds for appropriate expenditures, unless not allowed by law. Any excess §101 funds will be used either to supplement the budget priorities as discussed in Section 6 of this Plan or to provide for long-term maintenance and operational support of new systems adopted or implemented under this Plan.

## 11. Management of State Plan

*How the State will conduct ongoing management of the plan, except that the State may not make any material change in the administration of the plan unless the change –*

- (A) Is developed and published in the Federal Register in accordance with section 255 in the same manner as the State plan;*
- (B) Is subject to public notice and comment in accordance with section 256 in the same manner as the State Plan; and*
- (C) Takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register in accordance with subparagraph (A).*

*– HAVA §254 (a)(11)*

The Secretary of the State Board of Elections has overall responsibility for the implementation and management of the State Plan and makes regular reports to the Board. The Deputy Secretary has day-to-day operational responsibility for the implementation of the plan with the Assistant Secretaries managing the implementation of the aspects of the plan that fall within their purview.

In 2003, SBE staffing was insufficient for the proper administration and implementation of the Act. Additional staff were hired to supplement the current SBE structure, particularly in the areas of voting equipment, accessibility, training and policy.

The Board will establish an annual review procedure that will include (at a minimum) an evaluation process that measures progress against the performance standards adopted the prior year and a procedure for adopting changes to the State Plan.

Virginia understands that no material changes in the administration of the plan will be made unless the change:

- (A) Is developed and published in the Federal Register in accordance with section 255;
- (B) Is subject to public notice and comment in accordance with section 256; and
- (C) Takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register.

**12. Changes from the Previous Year's Plan**

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*In the case of a State with a State plan in effect under this subtitle during the previous fiscal year, a description of how the plan reflects changes from the State plan for the previous fiscal year and of how the State succeeded in carrying out the State plan for such previous fiscal year. – HAVA §254 (a)(12)*

### 13. The HAVA Advisory Committee and its Procedures.

*A description of the committee which participated in the development of the State plan in accordance with section 255 and the procedures followed by the committee under such section and section 256. – HAVA §254 (a)(13)*

Virginia's HAVA Advisory Committee (HAC) is a diverse group of citizens including representatives from various constituency groups, local election officials and representatives from state agencies. Jean Jensen, Secretary of the SBE, chaired the committee. The HAC met three times before the release of this plan for public comment and provided essential guidance particularly on the issues of accessibility, voter education and training. Further, the HAC reviewed drafts of the State Plan and was instrumental in disseminating the plan, holding public hearings and soliciting citizen input.

The Committee membership, including each person's affiliation, is as follows:

<b>William Blake</b> Policy Director, Students of Virginia	<b>Michael G. Brown</b> Chair, VA State Board of Elections
<b>Steve Calos</b> Director, Center for Open, Ethical & Accountable Government	<b>Mary-Margaret Cash</b> Chief Deputy Comm., VA Dept. of Rehabilitative Services
<b>Otis S. Childress, Jr.</b> Chairman, York County Electoral Board	<b>Charlotte W. Cleary</b> Former General Registrar, Arlington County
<b>Linwood Cobb</b> Former Chair, VA State Board of Elections	<b>Linda Crenshaw</b> Director, Enterprise Solutions Division, VA Dept. of Info. Tech.
<b>Doris Crouse-Mays</b> Political Director, VA State AFL-CIO	<b>Ray H. Davis</b> General Registrar, Stafford County
<b>Marshall Dean Dowdy</b> VA Municipal League	<b>Charles F. Downs</b> ADA Coordinator, City of Waynesboro, Dept. of Planning
<b>Mary P. Doxey</b> Chairman, City of Newport News Electoral Board	<b>Thomas W. Fina</b> Executive Director Emeritus, Democrats Abroad
<b>Susan B. Fitz-Hugh</b> Former Secretary, VA State Board of Elections	<b>Lawrence H. Framme, III</b> Chairman, Democratic Party of VA
<b>Carey Friedman</b> Policy Director, Office of the Lt. Governor	<b>Claire Guthrie Gastañaga</b> Legal Counsel on Redistricting & Election Issues
<b>Donna H. Green</b> Exec. Asst. to the Electoral Board, Prince William County	<b>Marlene J. Hager</b> General Registrar, City of Virginia Beach
<b>Earl H. Hale, Jr.</b> Secretary, Prince George County Electoral Board	<b>Barbara Hildenbrand</b> Vice Chair, VA State Board of Elections
<b>James Hopper</b> Senior Attorney General, Office of the Atty. General	<b>Connie M. Houston</b> Past President, VA League of Women Voters
<b>Marion C. "Jeff" Jefferson</b> Secretary, Campbell County Electoral Board	<b>Jean R. Jensen</b> Secretary, VA State Board of Elections
<b>Robert B. Jones</b> President, StatePulse	<b>The Hon. Timothy M. Kaine</b> Lieutenant Governor, Commonwealth of Virginia
<b>The Hon. Jerry Kilgore</b> Attorney General, Commonwealth of Virginia	<b>Margaret K. Luca</b> Secretary, Fairfax County Electoral Board
<b>Courtney Malveaux, Esq.</b> Attorney, Big Brothers/Big Sisters of Richmond	<b>Jennifer McClellan</b> Attorney, VA State Bar Young Lawyers Conference
<b>Delceno Miles</b> Chair, Hampton Roads Chamber of Commerce	<b>Richard F. "Rick" Neel, Jr.</b> Bd. Of Directors, VA Economic Development Partnership
<b>Edward A. O'Neal</b> Chairman, City of Norfolk Electoral Board	<b>Deloris M. Overton</b> General Registrar, City of Portsmouth Electoral Board

(continued next page)

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